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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,720	08/20/2003	Jeffrey C. Hessenberger	066042-9398-01	6121
23409	7590	12/27/2005	EXAMINER	
MICHAEL BEST & FRIEDRICH, LLP 100 E WISCONSIN AVENUE MILWAUKEE, WI 53202			SELF, SHELLEY M	
			ART UNIT	PAPER NUMBER
			3725	

DATE MAILED: 12/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

6

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/644,720		HESSENBERGER ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Shelley Self		3725	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 July 2005.
- 2a) ☐ This action is **FINAL**.
- 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 and 41-59 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 58 is/are allowed.
- 6) ☒ Claim(s) 1-3, 18-20, 55, 57 and 59 is/are rejected.
- 7) ☒ Claim(s) 4-17, 21, 41-54, 56, 58 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All    b) ☐ Some \*    c) ☐ None of:  
     1. ☐ Certified copies of the priority documents have been received.  
     2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Upon further review, a prior art reference appears to be applicable to the claimed invention. Accordingly, the notice of Allowance has been withdrawn. Examiner apologizes for the delay in prosecution.

This Office Action is deemed a non-final action.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

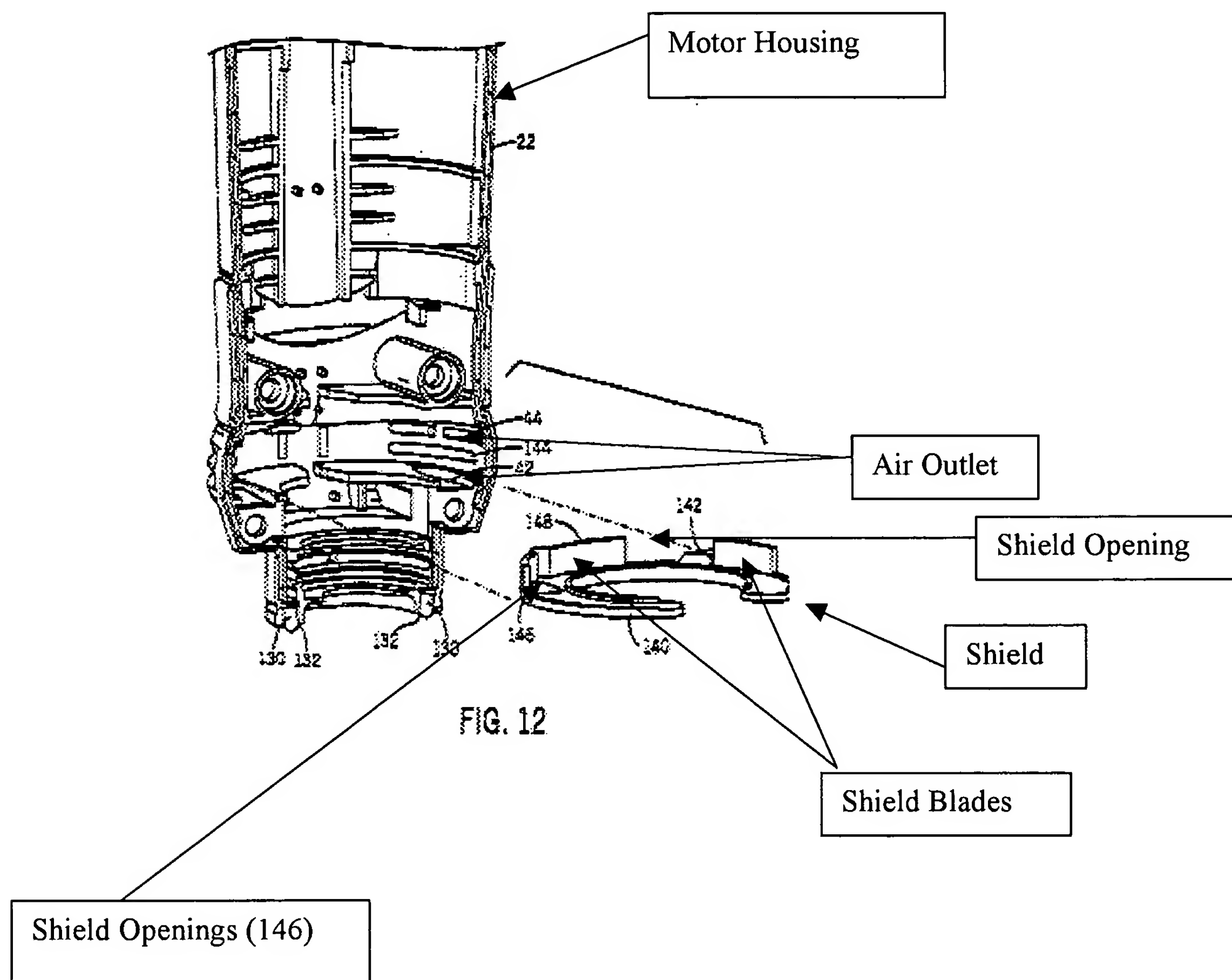
(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-3, 18, 55, 57 and 59 are rejected under 35 U.S.C. 102(a) as being anticipated by Kopras et al. (6,443,675). Kopras discloses a power tool/router comprising a base (56); a motor housing (22) supported by the base and defining a central axis (figs. 1, 2) and an air outlet (42, 44), the air outlet having portions thereof positioned on each of two opposing sides of the central axis, air passing from the motor housing through the air outlet; a motor (col. 8, lines 26-27) supported by the motor housing (22); and a shield (140) connectable to the motor housing (col. 19, lines 26-31) in a position to at least partially cover the portions of the air outlet (42, 44) on the two opposing sides of the central axis (fig. 12; col. 19, lines 42-56).

Further Kopras discloses the shield removably connectable to the motor housing, the shield being positionable at least partially outside the motor housing (fig. 1). Examiner notes the

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shield to have a tab (142) which protrudes outside the motor housing (22) so as to rotate the shield within the motor housing (22) to at least partially cover portions of the air outlet (42, 44).



With regard to claims 18 and 55, Kopras discloses the shield (140) to be substantially circular (fig. 12).

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With regard to claim 57, Kopras discloses the shield (140) includes a plurality of blades (148) spaced apart from one another to define openings therebetween (fig. 12).

With regard to claim 59, Kopras discloses a base, motor housing (22) being supported by the base, the central axis of the motor housing being generally vertical (fig. 1) and a handle (24) connected to at least one of the base and the motor housing (fig. 1), the handle (24) defining a handle axis and having a grip portion (fig. 1) extending generally along the handle axis, the handle axis being non-parallel to the central axis. Examiner notes the handle (24) to be positioned at an angle relative to the central vertical axis of the motor housing (22) and the handle having a gripping portion along the handle, because the handle is posited at a non-vertical angle relative to the central axis, the handle axis is thus non-parallel to the central axis.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kopras et al (6,443,675) alone. Kopras does not explicitly disclose the shield made of plastic/nylon. It would have been obvious at the time of the invention to one having ordinary skill in the art to construct Kopras' shield of plastic/nylon because it is well within the general skill of a worker within the art to select a known material on the basis of its suitability for the intended use as obvious mechanical efficiency. *In re Leshin*, 125 USPQ 416.

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Furthermore, Kopras teaches the motor housing and various components to be made of plastics and other various materials (col. 8, lines 15-17; col. 11, lines 37-39). Accordingly, it would have been obvious at the time of the invention to one having ordinary skill in the art to construct the shield of plastic/nylon based on its desirable (strength) characteristics for use in the power tool/router construction.

***Allowable Subject Matter***

Claim 58 is allowed.

Claims 4-17, 21, 41-54 and 56 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not disclose or fairly suggest a power tool/router comprising a shield removably connectable to the motor housing, *wherein the motor housing includes a plurality of housing blades spaced apart from one another to define openings therebetween* in combination with the rest of the claimed limitations as set forth in claims 4, 6, 8, 12, 13, 17, 41, 43, 45, 49, 50 and 54.

Additionally, the prior art of record does not disclose or fairly suggest wherein the shield includes *a plurality of radially extending shield blades* in combination with the rest of the claimed limitations as set forth in claims 14 and 51.

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The prior art of record does not disclose or fairly suggest *the shield being operable to inhibit movement of debris through the air outlet and into the motor housing when the router is in the inverted position* in combination with the rest of the claimed limitations as set forth in claims 21 and 56.

Further the prior art of record does not disclose or fairly suggest *a flexible shield connectable to the base in a position to cover the open end and to allow access to the depth adjustment mechanism through the open end* in combination with the rest of the claimed limitations as set forth in claim 58.

The prior art of record, Kopras discloses a power tool/router (fig. 1) comprising a base (56) for adjusting the depth of a rotary cutting tool (20), a motor (col. 8, lines 26-27) enclosed in a motor housing (22), a motor shaft attached to the motor and a cutting bit (col. 10, line 32), a removable shield (140) mounted in the motor housing (22; col. 6, lines 32-35) to open and close air outlets (42, 44) of the motor housing (22), wherein a portion of the shield (140) is positioned partially outside( fig. 1) the motor housing so as to rotate the shield to at least partially cover the air outlet (42, 44). Kopras does not disclose *wherein the motor housing includes a plurality of housing blades spaced apart from one another to define openings therebetween*. Kopras is silent to a plurality of housing blades defining openings therebetween. Instead Kopras discloses a shield (140) that acts to direct/channel and exhaust air via openings (146) and vertical blades (148) such that the shield is rotatable to open or close the housing air openings (42, 44).

Additionally, Kopras does not disclose *a flexible shield connectable to the base in a position to cover the open end and to allow access to the depth adjustment mechanism through the open end*. Kopras is silent to any flexible shield. Kopras also fails to disclose or suggest *a plurality of*



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*radially extending shield blades*. Instead Kopras discloses shield blades (148) extending around or about the circumference (fig. 12) of the circular shield (140). To rearrange, Kopras such that the blades (148) extend about the radius of the shield (140) would inhibit operation of Kopras, thus there is no motivation within the reference to rearrange the shield blades to a radial construction.

Kopras does not disclose or fairly suggest *the shield being operable to inhibit movement of debris through the air outlet and into the motor housing when the router is in the inverted position*. Although Kopras' construction is such that the shield is above the air outlet (42) when the router is in an upright orientation and below the air outlet (42) when the router is in an inverted position, Kopras does not disclose *the shield being operable to inhibit movement of debris through the air outlet and into the motor housing when the router is in the inverted position*. Instead in an inverted orientation, Kopras shield would not inhibit movement of debris through the air outlet and into the motor housing and would actually allow debris to fall due to gravity to the motor housing via the ring opening of the shield (140). Accordingly, Kopras teaches away from the claimed invention as set forth in claims 21 and 56.

Accordingly, Kopras fails to anticipate or render obvious the claimed invention as set forth in claims 4, 6, 8, 12-14, 17, 21, 41, 43, 45, 49, 50, 51, 54, 56 and 58.

Neither the prior art of record nor any combination thereof discloses the claimed invention as set forth in claims 4, 6, 8, 12-14, 17, 21, 41, 43, 45, 49, 50, 51, 54, 56 and 58.

Therefore, claims 4-17, 21, 41-54, 56 and 58 contain allowable subject matter over the prior art of record.



*Response to Arguments*

Applicant's arguments have been carefully considered but are moot in view of the new ground(s) of rejection.

Applicant's remarks are drawn to the failure of Hestily to disclose a shield connectable to the motor housing in a position to at least partially cover the portions of the air outlet on the two opposing sides of the central axis. Examiner agrees that Hestily fails to disclose this structure, however the prior art reference Kopras et al. clearly discloses this deficiency. Accordingly, a new ground(s) of rejection is made in view of Kopras. The new ground(s) of rejection was necessitated by the amendment filed July 22, 2005.

*Conclusion*

New Drawings are required in response to the Notice of Draftperson's Patent drawing Review (4/6/05).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley Self whose telephone number is (571) 272-4524. The examiner can normally be reached Mon-Fri from 8:30am to 5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Derris Banks can be reached at (571) 272-4419. The fax phone numbers for the organization where this application or proceeding is assigned are (571) 273-8300 for regular and After Final communications.

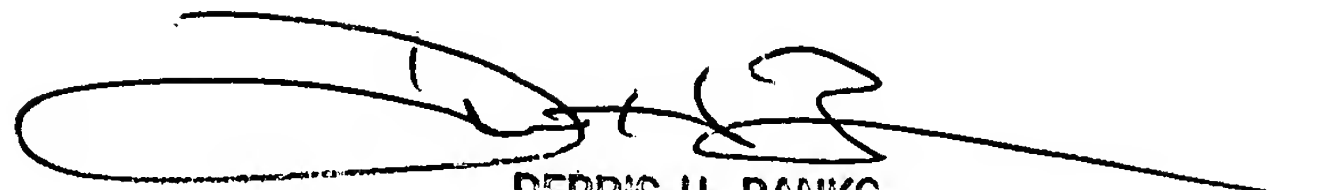
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SSelf

December 22, 2005



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